

House Engrossed Senate Bill

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

State of Arizona  
Senate  
Forty-ninth Legislature  
Second Regular Session  
2010

CHAPTER 160

## **SENATE BILL 1039**

AN ACT

AMENDING SECTION 15-183, ARIZONA REVISED STATUTES; RELATING TO CHARTER SCHOOLS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-183, Arizona Revised Statutes, is amended to  
3 read:

4 15-183. Charter schools; application; requirements; immunity;  
5 exemptions; renewal of application; reprisal

6 A. An applicant seeking to establish a charter school shall submit a  
7 written application to a proposed sponsor as prescribed in subsection C of  
8 this section. The application shall include a detailed business plan for the  
9 charter school and may include a mission statement for the charter school, a  
10 description of the charter school's organizational structure and the  
11 governing body, a financial plan for the first three years of operation of  
12 the charter school, a description of the charter school's hiring policy, the  
13 name of the charter school's applicant or applicants and requested sponsor, a  
14 description of the charter school's facility and the location of the school,  
15 a description of the grades being served and an outline of criteria designed  
16 to measure the effectiveness of the school.

17 B. The sponsor of a charter school may contract with a public body,  
18 private person or private organization for the purpose of establishing a  
19 charter school pursuant to this article.

20 C. The sponsor of a charter school may be either a school district  
21 governing board, the state board of education or the state board for charter  
22 schools, subject to the following requirements:

23 1. For charter schools that submit an application for sponsorship to a  
24 school district governing board:

25 (a) An applicant for a charter school may submit its application to a  
26 school district governing board, which shall either accept or reject  
27 sponsorship of the charter school within ninety days. An applicant may  
28 submit a revised application for reconsideration by the governing board. If  
29 the governing board rejects the application, the governing board shall notify  
30 the applicant in writing of the reasons for the rejection. The applicant may  
31 request, and the governing board may provide, technical assistance to improve  
32 the application.

33 (b) In the first year that a school district is determined to be out  
34 of compliance with the uniform system of financial records, within fifteen  
35 days of the determination of noncompliance, the school district shall notify  
36 by certified mail each charter school sponsored by the school district that  
37 the school district is out of compliance with the uniform system of financial  
38 records. The notification shall include a statement that if the school  
39 district is determined to be out of compliance for a second consecutive year,  
40 the charter school will be required to transfer sponsorship to another entity  
41 pursuant to subdivision (c) of this paragraph.

42 (c) In the second consecutive year that a school district is  
43 determined to be out of compliance with the uniform system of financial  
44 records, within fifteen days of the determination of noncompliance, the  
45 school district shall notify by certified mail each charter school sponsored

1 by the school district that the school district is out of compliance with the  
2 uniform system of financial records. A charter school that receives a  
3 notification of school district noncompliance pursuant to this subdivision  
4 shall file a written sponsorship transfer application within forty-five days  
5 with the state board of education, the state board for charter schools or the  
6 school district governing board if the charter school is located within the  
7 geographic boundaries of that school district. A charter school that  
8 receives a notification of school district noncompliance may request an  
9 extension of time to file a sponsorship transfer application, and the state  
10 board of education, the state board for charter schools or a school district  
11 governing board may grant an extension of not more than an additional thirty  
12 days if good cause exists for the extension. The state board of education  
13 and the state board for charter schools shall approve a sponsorship transfer  
14 application pursuant to this paragraph.

15 (d) A school district governing board shall not grant a charter to a  
16 charter school that is located outside the geographic boundaries of that  
17 school district.

18 (e) A school district that has been determined to be out of compliance  
19 with the uniform system of financial records during either of the previous  
20 two fiscal years shall not sponsor a new or transferring charter school.

21 2. The applicant may submit the application to the state board of  
22 education or the state board for charter schools. The state board of  
23 education or the state board for charter schools may approve the application  
24 if the application meets the requirements of this article and may approve the  
25 charter if the proposed sponsor determines, within its sole discretion, that  
26 the applicant is sufficiently qualified to operate a charter school. The  
27 state board of education or the state board for charter schools may approve  
28 any charter schools transferring charters. The state board of education and  
29 the state board for charter schools shall approve any charter schools  
30 transferring charters from a school district that is determined to be out of  
31 compliance with the uniform system of financial records pursuant to this  
32 section, but may require the charter school to sign a new charter that is  
33 equivalent to the charter awarded by the former sponsor. If the state board  
34 of education or the state board for charter schools rejects the preliminary  
35 application, the state board of education or the state board for charter  
36 schools shall notify the applicant in writing of the reasons for the  
37 rejection and of suggestions for improving the application. An applicant may  
38 submit a revised application for reconsideration by the state board of  
39 education or the state board for charter schools. The applicant may request,  
40 and the state board of education or the state board for charter schools may  
41 provide, technical assistance to improve the application.

42 3. Each applicant seeking to establish a charter school shall submit a  
43 full set of fingerprints to the approving agency for the purpose of obtaining  
44 a state and federal criminal records check pursuant to section 41-1750 and  
45 Public Law 92-544. If an applicant will have direct contact with students,

1 the applicant shall possess a valid fingerprint clearance card that is issued  
2 pursuant to title 41, chapter 12, article 3.1. The department of public  
3 safety may exchange this fingerprint data with the federal bureau of  
4 investigation. The criminal records check shall be completed before the  
5 issuance of a charter.

6 4. All persons engaged in instructional work directly as a classroom,  
7 laboratory or other teacher or indirectly as a supervisory teacher, speech  
8 therapist or principal shall have a valid fingerprint clearance card that is  
9 issued pursuant to title 41, chapter 12, article 3.1, unless the person is a  
10 volunteer or guest speaker who is accompanied in the classroom by a person  
11 with a valid fingerprint clearance card. A charter school shall not employ a  
12 teacher whose certificate has been revoked for a violation of section 15-507  
13 or 15-550 or for any offense that placed a pupil in danger. All other  
14 personnel shall be fingerprint checked pursuant to section 15-512. Before  
15 employment, the charter school shall make documented, good faith efforts to  
16 contact previous employers of a person to obtain information and  
17 recommendations that may be relevant to a person's fitness for employment as  
18 prescribed in section 15-512, subsection F. The charter school shall notify  
19 the department of public safety if the charter school or sponsor receives  
20 credible evidence that a person who possesses a valid fingerprint clearance  
21 card is arrested for or is charged with an offense listed in section  
22 41-1758.03, subsection B. Charter schools may hire personnel that have not  
23 yet received a fingerprint clearance card if proof is provided of the  
24 submission of an application to the department of public safety for a  
25 fingerprint clearance card and if the charter school that is seeking to hire  
26 the applicant does all of the following:

27 (a) Documents in the applicant's file the necessity for hiring and  
28 placement of the applicant before receiving a fingerprint clearance card.

29 (b) Ensures that the department of public safety completes a statewide  
30 criminal records check on the applicant. A statewide criminal records check  
31 shall be completed by the department of public safety every one hundred  
32 twenty days until the date that the fingerprint check is completed.

33 (c) Obtains references from the applicant's current employer and the  
34 two most recent previous employers except for applicants who have been  
35 employed for at least five years by the applicant's most recent employer.

36 (d) Provides general supervision of the applicant until the date that  
37 the fingerprint card is obtained.

38 (e) Completes a search of criminal records in all local jurisdictions  
39 outside of this state in which the applicant has lived in the previous five  
40 years.

41 (f) Verifies the fingerprint status of the applicant with the  
42 department of public safety.

1           5. A charter school that complies with the fingerprinting requirements  
2 of this section shall be deemed to have complied with section 15-512 and is  
3 entitled to the same rights and protections provided to school districts by  
4 section 15-512.

5           6. If a charter school operator is not already subject to a public  
6 meeting or hearing by the municipality in which the charter school is  
7 located, the operator of a charter school shall conduct a public meeting at  
8 least thirty days before the charter school operator opens a site or sites  
9 for the charter school. The charter school operator shall post notices of  
10 the public meeting in at least three different locations that are within  
11 three hundred feet of the proposed charter school site.

12           7. A person who is employed by a charter school or who is an applicant  
13 for employment with a charter school, who is arrested for or charged with a  
14 nonappealable offense listed in section 41-1758.03, subsection B and who does  
15 not immediately report the arrest or charge to the person's supervisor or  
16 potential employer is guilty of unprofessional conduct and the person shall  
17 be immediately dismissed from employment with the charter school or  
18 immediately excluded from potential employment with the charter school.

19           8. A person who is employed by a charter school and who is convicted  
20 of any nonappealable offense listed in section 41-1758.03, subsection B or is  
21 convicted of any nonappealable offense that amounts to unprofessional conduct  
22 under section 15-550 shall immediately do all of the following:

23           (a) Surrender any certificates issued by the department of education.

24           (b) Notify the person's employer or potential employer of the  
25 conviction.

26           (c) Notify the department of public safety of the conviction.

27           (d) Surrender the person's fingerprint clearance card.

28           D. A board that is authorized to sponsor charter schools pursuant to  
29 this article has no legal authority over or responsibility for a charter  
30 school sponsored by a different board. This subsection does not apply to the  
31 state board of education's duty to exercise general supervision over the  
32 public school system pursuant to section 15-203, subsection A, paragraph 1.

33           E. The charter of a charter school shall ensure the following:

34           1. Compliance with federal, state and local rules, regulations and  
35 statutes relating to health, safety, civil rights and insurance. The  
36 department of education shall publish a list of relevant rules, regulations  
37 and statutes to notify charter schools of their responsibilities under this  
38 paragraph.

39           2. That it is nonsectarian in its programs, admission policies and  
40 employment practices and all other operations.

41           3. That it provides a comprehensive program of instruction for at  
42 least a kindergarten program or any grade between grades one and twelve,  
43 except that a school may offer this curriculum with an emphasis on a specific  
44 learning philosophy or style or certain subject areas such as mathematics,  
45 science, fine arts, performance arts or foreign language.

1           4. That it designs a method to measure pupil progress toward the pupil  
2 outcomes adopted by the state board of education pursuant to section  
3 15-741.01, including participation in the Arizona instrument to measure  
4 standards test and the nationally standardized norm-referenced achievement  
5 test as designated by the state board and the completion and distribution of  
6 an annual report card as prescribed in chapter 7, article 3 of this title.

7           5. That, except as provided in this article and in its charter, it is  
8 exempt from all statutes and rules relating to schools, governing boards and  
9 school districts.

10          6. That, except as provided in this article, it is subject to the same  
11 financial and electronic data submission requirements as a school district,  
12 including the uniform system of financial records as prescribed in chapter 2,  
13 article 4 of this title, procurement rules as prescribed in section 15-213  
14 and audit requirements. The auditor general shall conduct a comprehensive  
15 review and revision of the uniform system of financial records to ensure that  
16 the provisions of the uniform system of financial records that relate to  
17 charter schools are in accordance with commonly accepted accounting  
18 principles used by private business. A school's charter may include  
19 exceptions to the requirements of this paragraph that are necessary as  
20 determined by the district governing board, the state board of education or  
21 the state board for charter schools. The department of education or the  
22 office of the auditor general may conduct financial, program or compliance  
23 audits.

24          7. Compliance with all federal and state laws relating to the  
25 education of children with disabilities in the same manner as a school  
26 district.

27          8. That it provides for a governing body for the charter school that  
28 is responsible for the policy decisions of the charter school.  
29 Notwithstanding section 1-216, if there is a vacancy or vacancies on the  
30 governing body, a majority of the remaining members of the governing body  
31 constitute a quorum for the transaction of business, unless that quorum is  
32 prohibited by the charter school's operating agreement.

33          9. That it provides a minimum of one hundred seventy-five  
34 instructional days before June 30 of each fiscal year unless it is operating  
35 on an alternative calendar approved by its sponsor. The superintendent of  
36 public instruction shall adjust the apportionment schedule accordingly to  
37 accommodate a charter school utilizing an alternative calendar.

38          F. The charter of a charter school shall include a description of the  
39 charter school's personnel policies, personnel qualifications and method of  
40 school governance and the specific role and duties of the sponsor of the  
41 charter school. A charter school shall keep on file the resumes of all  
42 current and former employees who provide instruction to pupils at the charter  
43 school. Resumes shall include an individual's educational and teaching  
44 background and experience in a particular academic content subject area. A  
45 charter school shall inform parents and guardians of the availability of the

1 resume information and shall make the resume information available for  
2 inspection on request of parents and guardians of pupils enrolled at the  
3 charter school. Nothing in this subsection shall be construed to require any  
4 charter school to release personally identifiable information in relation to  
5 any teacher or employee, including the teacher's or employee's address,  
6 salary, social security number or telephone number.

7 G. The charter of a charter school may be amended at the request of  
8 the governing body of the charter school and on the approval of the sponsor.

9 H. Charter schools may contract, sue and be sued.

10 I. An approved plan to establish a charter school is effective for  
11 fifteen years from the first day of the fiscal year the charter school is in  
12 operation, subject to the following:

13 1. At least eighteen months before the expiration of the approved  
14 plan, the sponsor shall notify the charter school that the charter school may  
15 apply for renewal. A charter school that elects to apply for renewal shall  
16 file an application for renewal at least fifteen months before the expiration  
17 of the approved plan. In addition to any other requirements, the application  
18 for renewal shall include a detailed business plan for the charter school, a  
19 review of fiscal audits and academic performance data for the charter school  
20 that are annually collected by the sponsor and a review of the current  
21 contract between the sponsor and the charter school. The sponsor may deny  
22 the request for renewal if, in its judgment, the charter school has failed to  
23 complete the obligations of the contract or has failed to comply with this  
24 article. A sponsor shall give written notice of its intent not to renew the  
25 charter school's request for renewal to the charter school at least twelve  
26 months before the expiration of the approved plan to allow the charter school  
27 an opportunity to apply to another sponsor to transfer the operation of the  
28 charter school. If the operation of the charter school is transferred to  
29 another sponsor, the fifteen year period of the current charter shall be  
30 maintained.

31 2. A charter operator may apply for early renewal. At least nine  
32 months before the charter school's intended renewal consideration, the  
33 operator of the charter school shall submit a letter of intent to the sponsor  
34 to apply for early renewal. The sponsor shall review fiscal audits and  
35 academic performance data for the charter school that are annually collected  
36 by the sponsor, review the current contract between the sponsor and the  
37 charter school and provide the qualifying charter school with a renewal  
38 application. On submission of a complete application, the sponsor shall give  
39 written notice of its consideration of the renewal application.

40 3. A sponsor shall review a charter at five year intervals and may  
41 revoke a charter at any time if the charter school breaches one or more  
42 provisions of its charter. At least ninety days before the effective date of  
43 the proposed revocation the sponsor shall give written notice to the operator  
44 of the charter school of its intent to revoke the charter. Notice of the  
45 sponsor's intent to revoke the charter shall be delivered personally to the

1 operator of the charter school or sent by certified mail, return receipt  
2 requested, to the address of the charter school. The notice shall  
3 incorporate a statement of reasons for the proposed revocation of the  
4 charter. The sponsor shall allow the charter school at least ninety days to  
5 correct the problems associated with the reasons for the proposed revocation  
6 of the charter. The final determination of whether to revoke the charter  
7 shall be made at a public hearing called for such purpose.

8 J. The charter may be renewed for successive periods of twenty years  
9 if the sponsor deems that the school is in compliance with its own charter  
10 and this article.

11 K. A charter school that is sponsored by the state board of education  
12 or the state board for charter schools may not be located on the property of  
13 a school district unless the district governing board grants this authority.

14 L. A governing board or a school district employee who has control  
15 over personnel actions shall not take unlawful reprisal against another  
16 employee of the school district because the employee is directly or  
17 indirectly involved in an application to establish a charter school. A  
18 governing board or a school district employee shall not take unlawful  
19 reprisal against an educational program of the school or the school district  
20 because an application to establish a charter school proposes the conversion  
21 of all or a portion of the educational program to a charter school. For the  
22 purposes of this subsection, "unlawful reprisal" means an action that is  
23 taken by a governing board or a school district employee as a direct result  
24 of a lawful application to establish a charter school and that is adverse to  
25 another employee or an education program and:

26 1. With respect to a school district employee, results in one or more  
27 of the following:

- 28 (a) Disciplinary or corrective action.
- 29 (b) Detail, transfer or reassignment.
- 30 (c) Suspension, demotion or dismissal.
- 31 (d) An unfavorable performance evaluation.
- 32 (e) A reduction in pay, benefits or awards.
- 33 (f) Elimination of the employee's position without a reduction in  
34 force by reason of lack of monies or work.
- 35 (g) Other significant changes in duties or responsibilities that are  
36 inconsistent with the employee's salary or employment classification.

37 2. With respect to an educational program, results in one or more of  
38 the following:

- 39 (a) Suspension or termination of the program.
- 40 (b) Transfer or reassignment of the program to a less favorable  
41 department.
- 42 (c) Relocation of the program to a less favorable site within the  
43 school or school district.
- 44 (d) Significant reduction or termination of funding for the program.



1 M. Charter schools shall secure insurance for liability and property  
2 loss. The governing body of a charter school that is sponsored by the state  
3 board of education or the state board for charter schools may enter into an  
4 intergovernmental agreement or otherwise contract to participate in an  
5 insurance program offered by a risk retention pool established pursuant to  
6 section 11-952.01 or 41-621.01 or the charter school may secure its own  
7 insurance coverage. The pool may charge the requesting charter school  
8 reasonable fees for any services it performs in connection with the insurance  
9 program.

10 N. Charter schools do not have the authority to acquire property by  
11 eminent domain.

12 O. A sponsor, including members, officers and employees of the  
13 sponsor, is immune from personal liability for all acts done and actions  
14 taken in good faith within the scope of its authority.

15 P. Charter school sponsors and this state are not liable for the debts  
16 or financial obligations of a charter school or persons who operate charter  
17 schools.

18 Q. The sponsor of a charter school shall establish procedures to  
19 conduct administrative hearings on determination by the sponsor that grounds  
20 exist to revoke a charter. Procedures for administrative hearings shall be  
21 similar to procedures prescribed for adjudicative proceedings in title 41,  
22 chapter 6, article 10. Except as provided in section 41-1092.08, subsection  
23 H, final decisions of the state board of education and the state board for  
24 charter schools from hearings conducted pursuant to this subsection are  
25 subject to judicial review pursuant to title 12, chapter 7, article 6.

26 R. The sponsoring entity of a charter school shall have oversight and  
27 administrative responsibility for the charter schools that it sponsors.

28 S. Charter schools may pledge, assign or encumber their assets to be  
29 used as collateral for loans or extensions of credit.

30 T. All property accumulated by a charter school shall remain the  
31 property of the charter school.

32 U. Charter schools may not locate a school on property that is less  
33 than one-fourth mile from agricultural land regulated pursuant to section  
34 3-365, except that the owner of the agricultural land may agree to comply  
35 with the buffer zone requirements of section 3-365. If the owner agrees in  
36 writing to comply with the buffer zone requirements and records the agreement  
37 in the office of the county recorder as a restrictive covenant running with  
38 the title to the land, the charter school may locate a school within the  
39 affected buffer zone. The agreement may include any stipulations regarding  
40 the charter school, including conditions for future expansion of the school  
41 and changes in the operational status of the school that will result in a  
42 breach of the agreement.

1 V. A transfer of a charter to another sponsor, a transfer of a charter  
2 school site to another sponsor or a transfer of a charter school site to a  
3 different charter shall be completed before the beginning of the fiscal year  
4 that the transfer is scheduled to become effective. An entity that sponsors  
5 charter schools may accept a transferring school after the beginning of the  
6 fiscal year if the transfer is approved by the superintendent of public  
7 instruction. The superintendent of public instruction shall have the  
8 discretion to consider each transfer during the fiscal year on a case by case  
9 basis. If a charter school is sponsored by a school district that is  
10 determined to be out of compliance with this title, the uniform system of  
11 financial records or any other state or federal law, the charter school may  
12 transfer to another sponsoring entity at any time during the fiscal year.

13 W. NOTWITHSTANDING SUBSECTION X OF THIS SECTION, THE STATE BOARD FOR  
14 CHARTER SCHOOLS SHALL CHARGE A PROCESSING FEE TO ANY CHARTER SCHOOL THAT  
15 AMENDS THEIR CONTRACT TO PARTICIPATE IN THE ARIZONA ONLINE INSTRUCTION  
16 PROGRAM PURSUANT TO SECTION 15-808. THE CHARTER ARIZONA ONLINE INSTRUCTION  
17 PROCESSING FUND IS ESTABLISHED CONSISTING OF FEES COLLECTED AND ADMINISTERED  
18 BY THE STATE BOARD FOR CHARTER SCHOOLS. THE STATE BOARD FOR CHARTER SCHOOLS  
19 SHALL USE MONIES IN THE FUND ONLY FOR THE PROCESSING OF CONTRACT AMENDMENTS  
20 FOR CHARTER SCHOOLS PARTICIPATING IN ARIZONA ONLINE INSTRUCTION PROGRAMS.  
21 MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED.

22 ~~W.~~ X. The sponsoring entity may not charge any fees to a charter  
23 school that it sponsors unless the sponsor has provided services to the  
24 charter school and the fees represent the full value of those services  
25 provided by the sponsor. On request, the value of the services provided by  
26 the sponsor to the charter school shall be demonstrated to the department of  
27 education.

28 ~~X.~~ Y. Charter schools may enter into an intergovernmental agreement  
29 with a presiding judge of the juvenile court to implement a law related  
30 education program as defined in section 15-154. The presiding judge of the  
31 juvenile court may assign juvenile probation officers to participate in a law  
32 related education program in any charter school in the county. The cost of  
33 juvenile probation officers who participate in the program implemented  
34 pursuant to this paragraph shall be funded by the charter school.

35 Sec. 2. Emergency

36 This act is an emergency measure that is necessary to preserve the  
37 public peace, health or safety and is operative immediately as provided by  
38 law.

APPROVED BY THE GOVERNOR APRIL 26, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 27, 2010.